

(27)

**BEFORE THE REGISTRAR OF CO-OPERATIVE SOCIETIES-CUM-FIRST APPELLATE
AUTHORITY UNDER THE RIGHT TO INFORMATION ACT, 2005**

Present: **Tmt. P. PRIYTARSHNY,**
Registrar of Co-operative Societies-cum-
First Appellate Authority.

FA/23/2012

Thiru M. Premadasan,
7-8, Moovendar Street,
Mullai Nagar,
Puducherry – 605 005.

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Appellant

Vs.

The Public Information Officer,
Pondicherry Co-operative Sugar Mills Ltd., No.P.315,
Lingareddipalayam,
Katterikuppam P.O.,
Puducherry – 605 502.

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Respondent

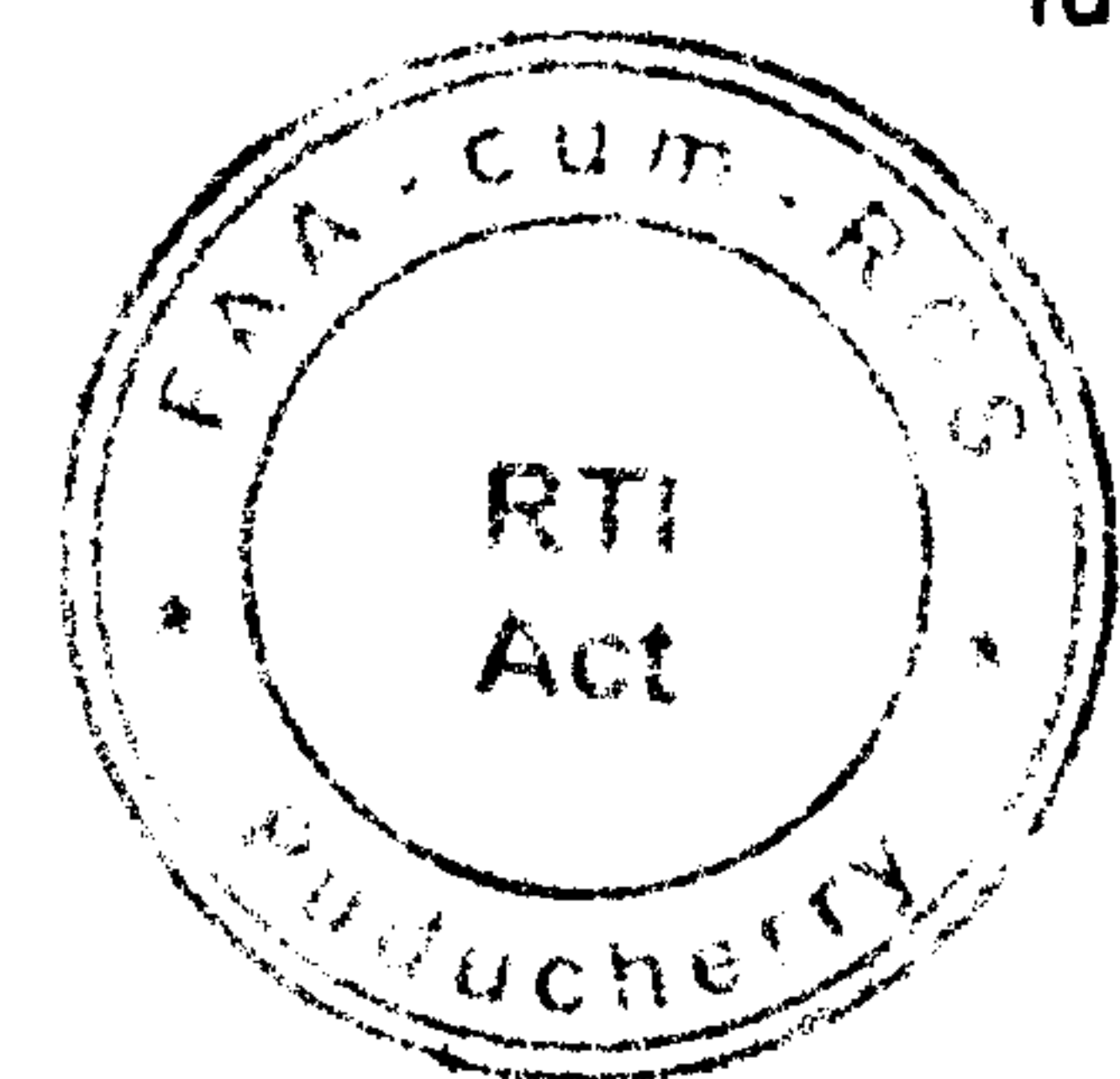
ORDER

(Issued under Section 19 of the Right to Information Act, 2005)

The short question that comes up for decision in this first appeal, filed under Section 19 of the Right to Information Act, 2005 (for brevity 'the Act') is that whether supply of the copy of enquiry report initiated against an employee would be saved by Section 8 (1) (h) of the Act when the disciplinary proceedings against the employee was still pending.

2. Facts germane to this appeal may be adverted first to appreciate the controversy. The appellant / applicant, vide application dated 22.3.2012, addressed to the respondent has requested to furnish the copy of the report given by Thiru A.V. Ramalingam, Retired JRCS / Enquiry Officer into the allegations against Thiru C. Mourthy, Civil Supervisor and others and also copies of the letters / memorandum communicating the enquiry report to Thiru C. Mourthy, Civil Supervisor and the reply furnished by him to the disciplinary authority.

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3. Denying access to the report, the respondent, vide letter dated 20.4.2012, has informed that as the decision based on the enquiry report is under consideration the disclosure of enquiry report may not be appropriate and hence exempted under Section 8 (1) (h) of the Act.

4. Aggrieved by the denial of information this first appeal came to be filed. Taking the appeal on file the respondent was directed to file his response on the grounds of appeal. A copy of the response filed by the respondent is forwarded to the appellant. In his submission the respondent stated that the disciplinary proceedings not reached the finality and it is before the Managing Director for final disposal. No public interest is involved in the disclosure of third party information and there is an apprehension that any disclosure of the enquiry report relating to the third party may vitiate the outcome of the disciplinary authority.

5. There is no gainsaying that the appellant has sought the enquiry report pertaining to an employee of the respondent Mills. According to the respondent the disciplinary proceedings has culminated to final stage.

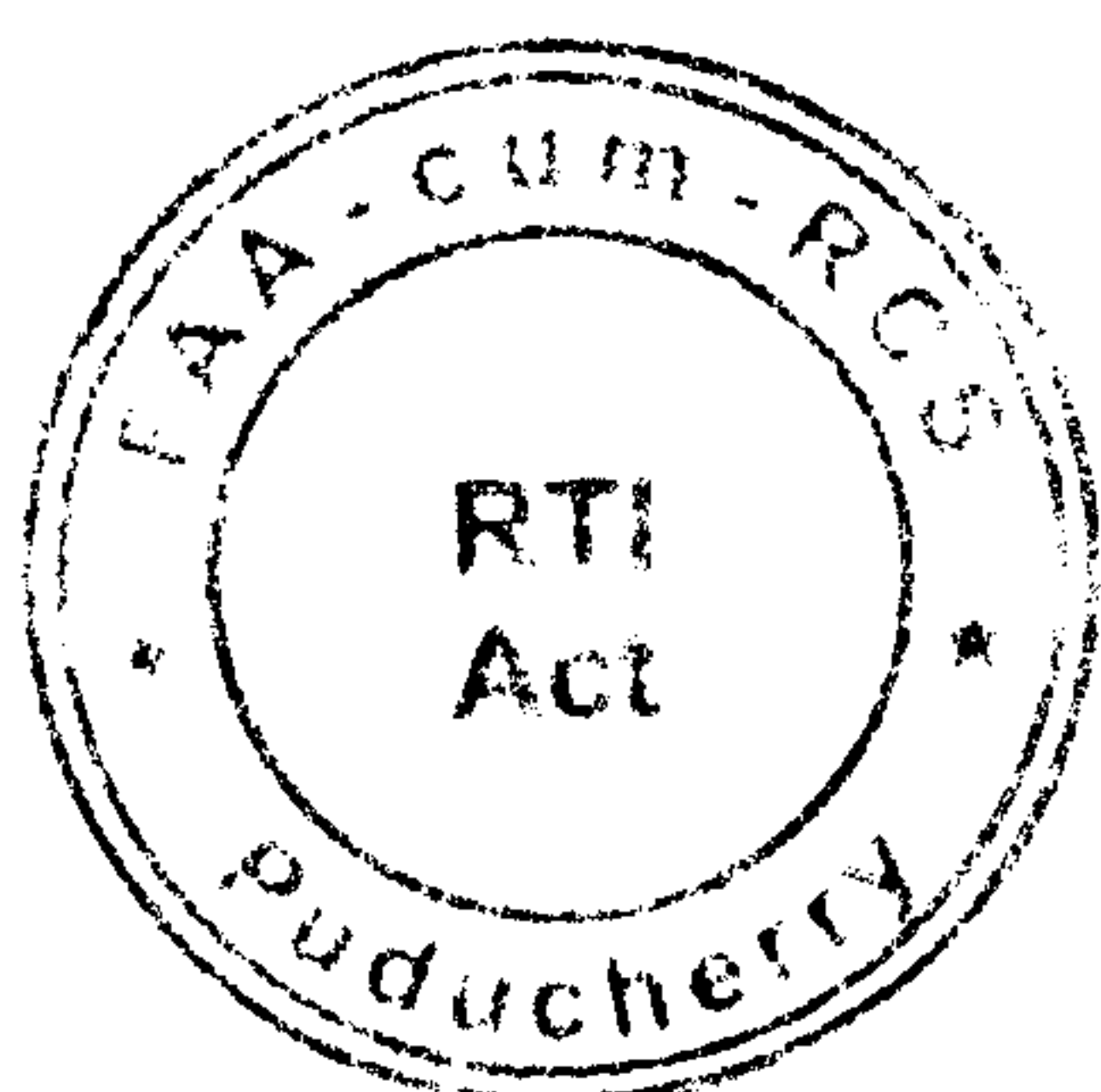
6. The question for consideration is whether disclosure of enquiry report and connected records at this stage would be in better interest or is saved by Section 8 (1) (h) of the Act. A reading of Section 8 (1) (h) would be advantageous :

" 8. Exemption from disclosure of information : Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, -

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(h) information which would impede the process of investigation or apprehension or prosecution of offenders ",

xxx xxx xxx xxx xxx



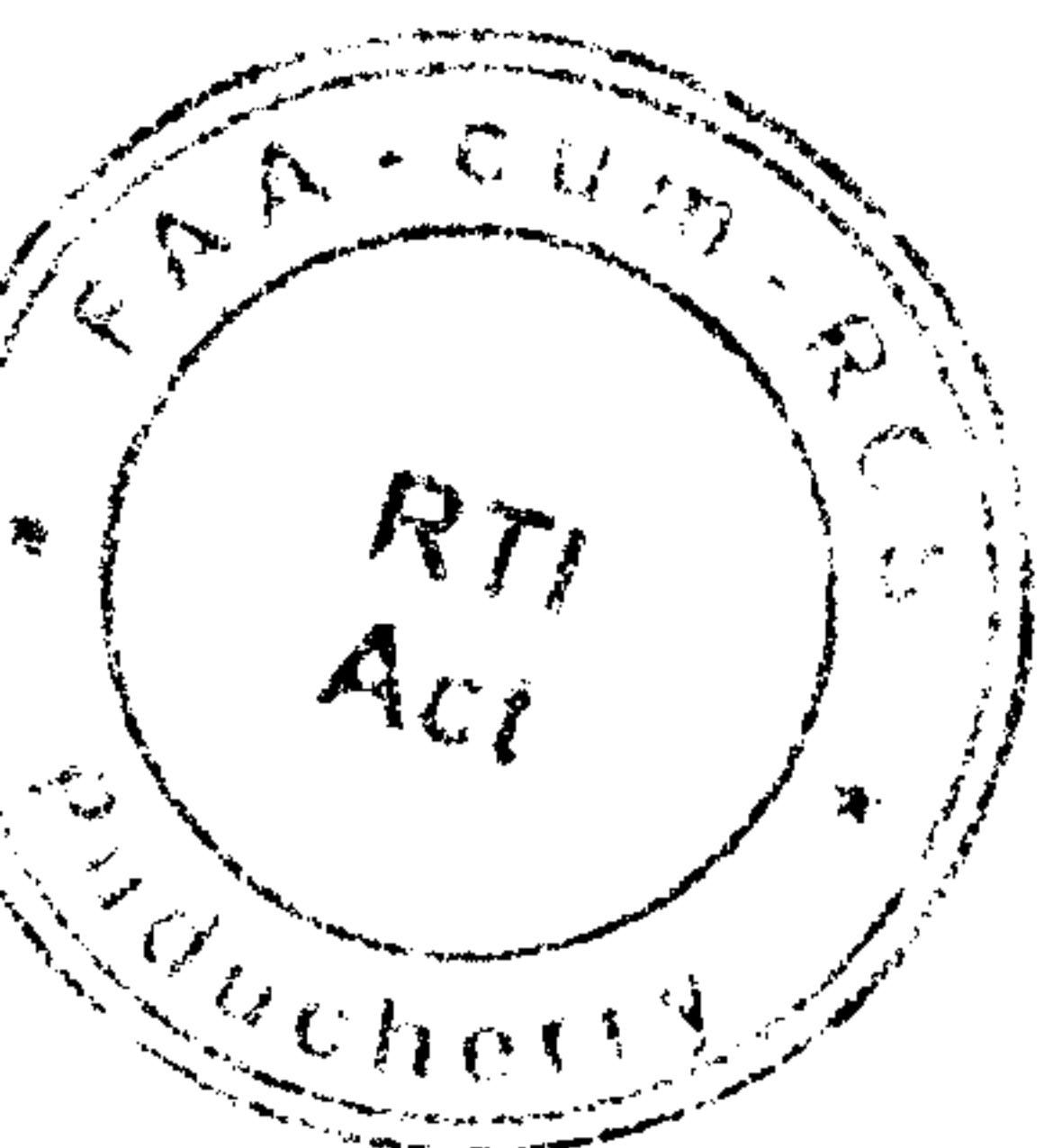
7. While furnishing his response the respondent relied on Section 8 (1) (j) which relates to personal information, the disclosure of which has no relationship to any public activity or interest. Disciplinary enquiry against an employee cannot be treated as a personal information which has no relation to any public activity or interest. Reliance placed on this clause does not appear to be appropriate. Coming back to Section 8 (1) (h) which was quoted while denying the information to the appellant is to be examined, in the light of the fact that the final order has not been passed in the disciplinary proceedings against Thiru C. Mourthy and others, as admitted by the respondent.

8. In *R.K. Singh vs. DG (Vigilance), Customs and Central Excise*, No.CIC/AT/A/2008/00222 dated 30.6.2008, the Central Information Commissioner has held that "premature disclosure of information connected with vigilance and department proceedings can result in impeding such proceedings, besides being counter to the purpose of the Act as spelt out in its Preamble."

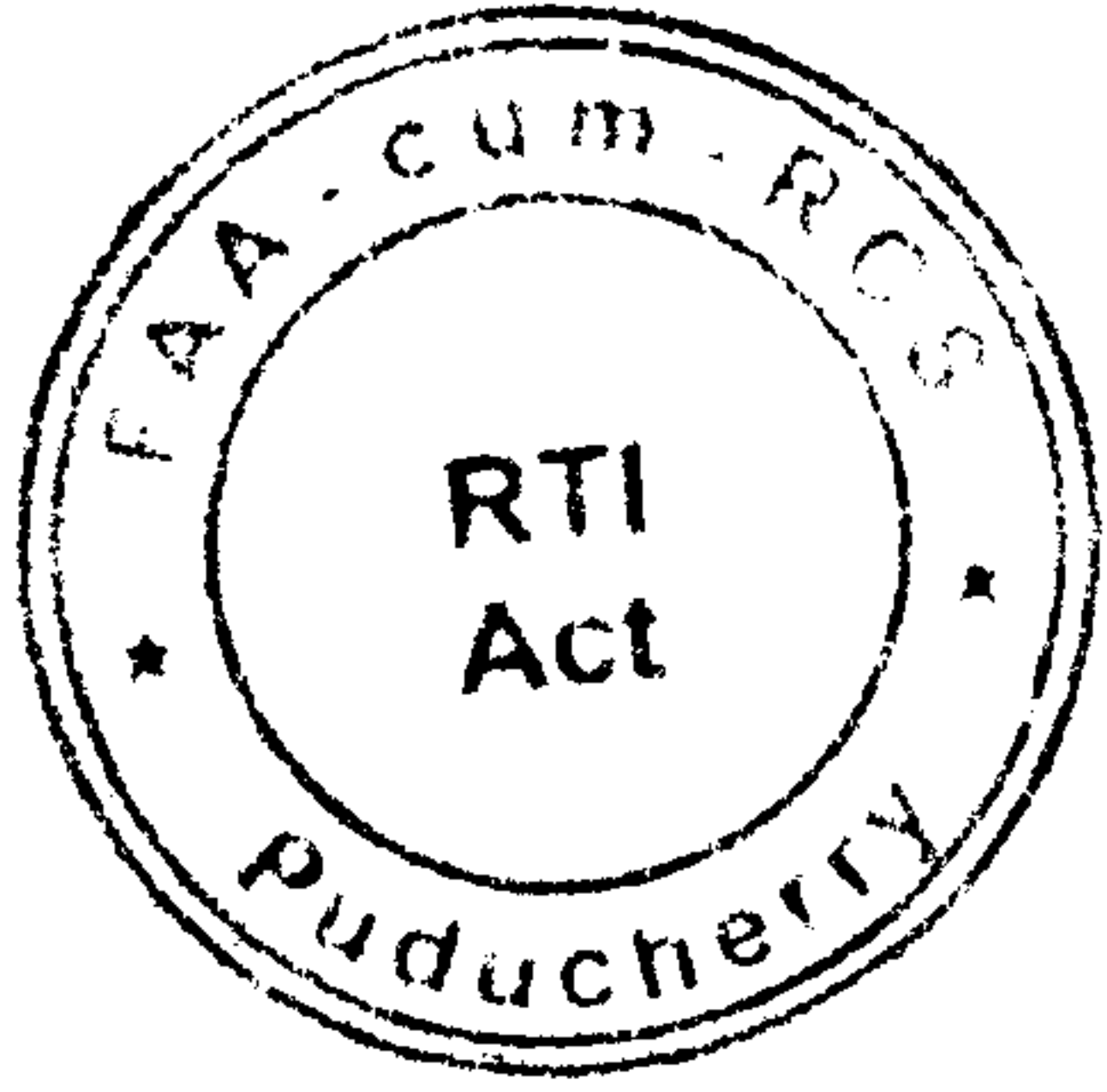
9. In *V.K. Gulati vs. DG (Vigilance), Customs and Central Excise*, No.CIC/AT/A/2007/01508 dated 17.6.2007, it was held by the Central Information Commission that disclosure of information relating to ongoing disciplinary proceedings, which are in the nature of ongoing investigation, will have the impact of compromising those proceedings and restricting the discretion of the Enquiry Officer to decide as to what documents the officer proceeded against will have access to. Since departmental enquiry is in the nature of ongoing investigation, it is covered by Section 8 (1) (h) of the Act. (Emphasis added)

10. Similar view was held by the Commission in *G.V. Rao vs. Centre for DNA, Fingerprinting and Diagnostics, Hyderabad*, No. CIC/AT/A/2008/00437 dated 31.10.2008. Falling in line with the rulings of the Central Information Commission, I see no compelling reason to interfere with the order of the respondent in declining to provide copies of the records as it would impede the process of the investigation. This falls within the ambit of Section 8 (1) (h). The first appeal has no substance and hence dismissed.

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11. A second appeal against the decision shall lie with the Central Information Commission, Room No.305, 2nd Floor, B-Wing, August Kranthi Bhavan, Bhikaji Cama Place, New Delhi – 110 066 within ninety (90) days, as provided in sub-section (3) of Section 19.



Dated this 15th day of June, 2012.

(P. PRIYTARSHNY)
REGISTRAR OF CO-OPERATIVE SOCIETIES

Encl.: As above.

O/c
15/6/12

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To

The Parties.